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February 15, 2023

BY ECF

The Honorable Naomi Reice Buchwald
United States District Judge
U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *In re LIBOR-Based Financial Instruments Antitrust Litigation*, No. 11-MD-2262 (NRB);
Gelboim, et al. v. Credit Suisse Group, et al., No. 12 Civ. 1025 (NRB)

Dear Judge Buchwald:

Pursuant to Rule 2.E.1 of the Court's Individual Practices, we write as Bondholder Settlement Class Counsel to outline the arguments Bondholder Plaintiffs advance in their Memorandum of Law in Support of Motion for Final Approval of Settlements with MUFG Bank, Ltd. (f/k/a The Bank of Tokyo-Mitsubishi UFJ, Ltd.), Credit Suisse Group AG, and The Norinchukin Bank.

Final Approval of the Settlements

Bondholder Plaintiffs respectfully submit that the Settlements are fair, reasonable, and adequate and therefore warrant final approval. First, the Settlements are the "product of arm's length negotiations conducted by experienced counsel knowledgeable in complex class litigation," such that they are entitled to a "presumption of fairness." *In re Austrian and German Bank Holocaust Litig.*, 80 F. Supp. 2d 164, 173-74 (S.D.N.Y. 2000). Second, as detailed in the accompanying memorandum of law, the Settlements satisfy the requirements of *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 463 (2d Cir. 1974), *abrogated on other grounds by Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000).

Final Approval of the Plan of Allocation

The Plan of Allocation also warrants final approval because it has "a reasonable, rational basis" and is "recommended by experienced and competent class counsel." *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *9 (S.D.N.Y. Apr. 26, 2016). Specifically, the Plan of Allocation provides for a pro rata distribution based on the sum of the suppressed daily underpayments of interest on the class securities. *See In re Global Crossing Sec. & ERISA Litig.*, 225 F.R.D. 436, 462 (S.D.N.Y. 2004) ("Pro-rata distribution of settlement funds based on investment loss is clearly a reasonable approach."). The Plan of Allocation is the same as the one the Court approved pursuant to Bondholder Plaintiffs' prior settlements. ECF No. 3246 at ¶ 5.

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Certification of the Settlement Classes

The Court previously certified the Settlement Classes for settlement purposes only. ECF No. 3578. Bondholder Plaintiffs respectfully request the Court confirm the certification of the Settlement Classes in the Final Judgment and Order.

The Court Should Confirm the Appointment of Bondholder Counsel Should as Bondholder Settlement Class Counsel

The Court previously appointed Morris and Morris LLC Counselors At Law and Weinstein, Kitchenoff & Asher LLC to serve as Bondholder Settlement Class Counsel in connection with the present Settlements. ECF No. 3578. These firms have vigorously represented the interests of the Settlement Classes and respectfully request that the Court confirm their appointment in the Final Judgment and Order.

Implementation of the Class Notice

Notice to members of the Settlement Classes was the “best practicable under the circumstances,” and included “individual notice to all members who can be identified through reasonable effort.” Fed. R. Civ. P. 23 (c)(2)(B). The Court approved Additional Notice Plan as complying with Rule 23 and due process. The accompanying declaration of Cameron Azari establishes that direct notice and publication notice were disseminated to Settlement Class members in accordance with the requirements of the Preliminary Approval Order.

The motion papers we anticipate filing, should the Court grant permission to do so, are filed herewith.

Respectfully,

/s/ Karen L. Morris

Karen L. Morris
Patrick F. Morris

/s/ Robert S. Kitchenoff

David H. Weinstein
Robert S. Kitchenoff

Bondholder Settlement Class Counsel